

18. Packaging according to Claim 12, characterized in that each sheet comprises, over the entire outer face, a non-stick coating which is applied before the sealing coating of the cold sealing coated regions.

REMARKS

The Office Action dated September 11, 2002, has been carefully considered. In the Office Action, the Patent Examiner presented a number of claim objections, indefiniteness rejections, and prior art rejections against claims 5-13 of the patent application. Claims 5-13 have been amended and claims 14-18 have been added. Claims 5-18 remain in the present patent application. Figure 9 has been deleted. Applicant respectfully requests re-examination and reconsideration of the claims in view of the foregoing amendments and the following remarks.

In summary, Applicant has exerted substantial effort to attempt to clarify the claim language and make it clearer what the Applicant is claiming. It is believed that the claims are roughly equivalent to those as filed with clarifications made to make explicit what was inherent or intended in the claims as filed. The claim amendments are relatively extensive to take care of all of the claim objections and indefiniteness rejections that have been advanced. Further, the claims make very clear that functional recitations in the claims "serve to precisely define present structural attributes of interrelated component parts of the claimed assembly" and are positive recitations as is expressly provided under M.P.E.P. § 2173.05(g) citing *In re Venezia*, 530 F 2d 956, 189 U.S.P.Q. 149 (CCPA 1976). Thus, under the express rule set forth in M.P.E.P. § 2173.05(g), the Patent Examiner cannot dismiss or ignore the functional limitations which define structure or structural attributes, and Applicant respectfully requests reconsideration along those lines.

Turning in more detail to the claim objections in paragraphs 1 and 2, Applicant has added the word "and" to make claim 7 in proper multiple dependent form. Further, claims 7 and 13 have been amended to ensure that they do not depend from other multiple dependent claims. Claims 14-18 have been added to pick up the intended subject matter that has been deleted from claims 7 and 13. For the foregoing reasons, the claim objections set forth in paragraphs 1 and 2 of the Office Action are believed to be moot.

Turning to the indefiniteness rejections, it is believed that the majority of the rejections have been cleared up by virtue of Applicant defining what is inherent in a sheet of film in that it includes longitudinal edges (that extend in the longitudinal direction for rolling and/or payout) and a pair of traverse edges that extend crosswise relative to the longitudinal

edges when the sheet is traversely cut. Further, Applicant has eliminated the language relating to the right side and reverse side and replaced it with an outer face and an inner face of the film. As noted by the Patent Examiner, in paragraph 9, it is inherent that a sheet of film has two faces, one for the inside of the article and one for the outside of the article. These amendments eliminate the problems noted by the Patent Examiner that relate to the "right side" which could be confused perhaps with an edge of the strip. In this regard, it is believed that the claim rejections set forth in paragraphs 4 and 5 are now moot. With respect to the differences between strips 24, 26, and strip 28, it should be noted that strips 24, 26 are in the longitudinal direction whereas strip 28 is in the traverse direction. Therefore, the separate reference to these different strips is certainly appropriate, particularly considering the differences between the present invention and the prior art as will be detailed further below.

With respect to paragraph 6 of the Office Action, Figure 9 has been deleted, and this issue is therefore moot.

With respect to paragraphs 7-10 of the Office Action, the faces of the packaging sheet have been more clearly defined with inner and outer face, thereby removing the term "right side". Therefore, the indefiniteness rejections of claim 9 are now believed to be moot. Further, the reference to "one of the bands" has been removed and replaced with "an inner strip" and "an outer strip" (with "inner" and "outer" provided for clarity to correspond to the face of the film for which the specific strip resides). For these reasons, Applicant requests that the Patent Examiner withdraw the indefiniteness rejections of paragraphs 9 and 10 of the Office Action.

Regarding paragraph 11 of the Office Action, Applicant has amended claim 10 to recite that "said strips when arranged in mutual superposition" to make clear that it is an arrangement that holds the package finally closed upon completion. It is noted that "mutual superposition" has an ordinary meaning to one of ordinary skill in the art indicating relative locations of the strips. Further, mutual adhesion and controlled adhesion have been corrected for antecedent basis and have been further amended with phrases such as "when folded around the article" to better indicate that the strips mutually adhere to one another to keep the wrapper closed when folded around an article. With respect to the phrase "paying out", it also has a well understood meaning to mean unraveling or unrolling of film from the roll. The claim has been made clear that the paying out is in the longitudinal direction and has been corrected for antecedent basis. Finally, the "reverse side" has been removed from the claim language and has been replaced with the more definite terms as noted above "inner face". In view of the foregoing amendments and the above remarks, Applicant respectfully

requests the Patent Examiner to withdraw the indefiniteness rejections advanced in paragraph 11 of the Office Action.

With respect to paragraph 12, claim 10 has been amended to more clearly recite that each sheet includes multiple strips with the recitation of the claim phrase "strips of cold sealing coating with at least one strip on each sheet along each transverse edge thereof". Therefore, it is believed that the rejections advanced in paragraph 12 are obviated.

Regarding the rejections advanced in paragraph 13, it is noted that page 10, line 11 of the specification introduces the term dry type and page 11 sets forth a specific form of dry type cold seal coating. Further, this term has a well-understood meaning within the art. In view of the foregoing, Applicant respectfully requests the Patent Examiner to remove the rejections advanced in paragraph 13.

Regarding paragraph 14, Applicant has deleted the phrase "designed" and replaced it with "arranged" and has further recited the later phrase "according to the folding sequence" to make clear that this language serves to precisely define present structural attributes of inner-related components as is proper under M.P.E.P. § 2173.05(g). Regarding paragraph 15 of the Office Action, particularly has been replaced with "such as". In view of these amendments, Applicant respectfully requests the Patent Examiner to withdraw the rejections advanced in paragraphs 14 and 15 of the Office.

Regarding paragraph 16 of the Office Action, Applicant has amended the phrase "packaging for wrapping for packaging" to "packaging for wrapping". Applicant therefore requests removal of the rejection advanced in paragraph 16 of the Office Action.

Regarding paragraph 17 of the Office Action, the phrase "the bands" has been eliminated and replaced with "strips" for clarity. As previously noted, the "right side" has been removed and replaced with "the outer face". In view of these claim amendments, the rejections in paragraph 17 are now moot.

Regarding paragraph 18, the phrase "intended to be closed" has been amended to recite "adapted to be closed" with a further recitation of "according to a folding sequence" to provide antecedent basis for later reference to the folding sequence in the claim body. Under M.P.E.P. § 2173.05(g), the phrase "adapted to be" has been held to "precisely define present structural attributes of interrelated component parts" and therefore, Applicant submits it is now a positive recitation in the claim for defining structural attributes of the packaging. Removal of the rejection advanced in paragraph 18 is respectfully solicited.

Regarding paragraph 19 of the Office Action, the Patent Examiner is correct that the word "strong" by itself is a relative term. However, the overall claim language gives a definite range for the strength of the controlled adhesion in that it is "strong enough to keep the wrapper closed when folded around the article, but not strong enough to disrupt a paying

out of film from the roll in the longitudinal direction when there is mutual contact in the wound state on the roll between the inner and outer strips". Some clarifying amendments have been made for easier reading to more clearly define the range of strength. The limits of the range, namely, keeping the wrapper closed when folded around the article and disruption of a paying out of film from its roll, are well understood within the art. The relative term "strength" is given definition within the claim itself and therefore, the relative term is not standing by itself and a rejection for relative terminology is not warranted under M.P.E.P. § 2173.05(b). Therefore, Applicant respectfully requests the Patent Examiner to withdraw the rejection of paragraph 19.

Regarding paragraph 20 of the Office Action, there have been some amendments made to claim 10 to make clear that the inner and outer strips are in mutual contact when in a wound state on the roll. Under M.P.E.P. § 2173.05(g), this is a positive recitation that serves to precisely define structural attributes of inner related component parts. The structural attributes can clearly be measured "when there is mutual contact" in a wound state meaning that there has to be mutual contact and a wound state in order to measure these structural attributes. Therefore, removal of the rejections set forth in paragraph 20 is respectfully solicited.

Regarding paragraph 21 of the Office Action, the phrase "reverse side" has been replaced with the "inner face" as previously mentioned, and therefore, this rejection is believed to be moot.

Regarding paragraph 22 of the Office Action, the phrase "most" has been replaced with "a majority". The word majority clearly is a well-understood and straightforward test for determining whether a majority exists. Removal of this rejection is therefore solicited.

Regarding paragraph 23 of the Office Action, the phrase "the sealing coating of the strips of sealing coating" has been replaced with "the strips of cold sealing coating" to obviate this rejection. Applicant therefore requests the Examiner to withdraw this rejection.

Turning to the prior art rejections, claims 10 and 7 have been rejected as anticipated by U.S. Patent No. 3,055,576 to Ottinger et al.; claims 10-13 have been rejected as anticipated by U.S. Patent No. 6,287,658 to Cosentino et al.; and claims 5-13 have been rejected as anticipated by U.S. Patent No. 5,934,809 to Marbler. First of all, regarding the Patent Examiner's comment in paragraph 25 of the Office Action that a translation of the foreign priority papers has not been made (relating to the Cosentino et al. reference),

- Applicant herewith submits a translation of the foreign priority papers and a statement that the translation is a true and correct translation of the European priority document. In view of the foregoing, the rejections based on Cosentino et al. are believed to be moot based on the

fact that Applicant can rely upon an earlier priority date to obviate Cosentino et al. Therefore, Cosentino et al. no longer qualifies as a citable reference under § 102(e).

Regarding the first anticipation rejection based on Ottinger et al., it fails to disclose each and every limitation and element of the claims. Ottinger et al. does teach a film with a strip of cold seal coating on each side of the film. There are, however, significant differences between this reference and the claims subject matter. In particular, the strips of cold seal coating in Ottinger et al. are only longitudinal strips which never come in contact with one another in the roll. This is clearly shown in FIG. 1 where the strips 7 and 9 never contact each other when rolled up. In contrast, the claimed invention sets forth that there is "at least one strip on each sheet along a transverse edge thereof" and further that "there is mutual contact in the wound state on the roll between the inner and outer strips". Further, Ottinger et al. fails to teach "a controlled adhesion" of the strips which is "not strong enough to disrupt paying out of the film from the roll in a longitudinal direction when there is mutual contact in the wound state on the roll between the inner and outer strips". In view of these differences, the claimed invention is clearly not anticipated by the Ottinger et al. under the standards set forth in M.P.E.P. § 2131 which requires the reference to teach every element and limitation of a claim. As alluded to above, the Patent Examiner can also not dismiss and ignore the functional recitations set forth in the claim under rule provided in M.P.E.P. § 2173.05(g) and the holding of *In re Venezia, supra*, which sets forth that such functional language can be used and can serve "precisely define present structural attributes of inner related component parts". Other cases cited under this section further support Applicant's position. Based on the foregoing, Applicant respectfully requests the Patent Examiner to withdraw the anticipation rejections based on Ottinger et al.

Because the rejection based upon Cosentino et al. is believed to be moot by virtue of the submission of the translation of the priority document, that leaves the remaining anticipation rejection based upon Marbler for claims 5-13. The rejection is respectfully traversed. First of all, Applicant respectfully requests the Patent Examiner to acknowledge that Applicant has properly defined present structural attributes of inner related component parts through the functional language pursuant to M.P.E.P. § 2173.05(g). The Patent Examiner's reference to § 2113 which relates to product by process claims is not applicable here as Applicant has not set forth a claim in product by process format nor has the Applicant claimed the method for forming the sheet. Instead, Applicant has positively recited the structural arrangement and characteristics of the sealant coating and the strips on the sheet using interrelationship language as Applicant has the right to do as set forth in M.P.E.P. § 2173.05(g) and the express holding of *In re Venezia, supra*. The express holding of *In re Venezia, supra*, is that the Patent Examiner must consider these positive recitations when the

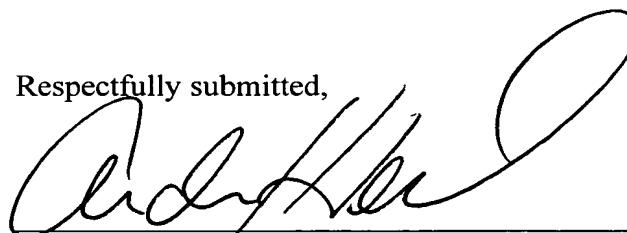
structural attributes are properly defined in terms of functional terms that interrelate component parts/portions. Therefore, it is believed that the rejections based upon Marbler are moot. Specifically, Marbler fails to teach "strips of cold seal coating, with at least one strip on each sheet along each transverse edge thereof". Marbler also fails to teach a controlled adhesion that is not strong enough a paying out of film from the roll in the longitudinal direction when there is mutual contact in the wound state on the roll between the inner and outer strips as is claimed in claim 10. Further, no contact between adhesive strips when the packaging material is rolled up is taught in Marbler. This is contrary to the recitation in claim 10 that "there is mutual contact in the wound state on the roll between the inner and outer strips". In view of the foregoing, Applicant respectfully requests that the rejections based on Marbler be removed.

Based on the foregoing, Applicant respectfully requests the Patent Examiner to withdraw all outstanding rejections and to issue a Notice of Allowance.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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Date: January 6, 2003

In re Appln. of Eddy Daelmans et al.
Application No. 09/807,093



CERTIFICATE OF MAILING

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Date: 1-16-03 *[Signature]*



PATENT
Attorney Docket No. 501139

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Eddy Daelmans et al.

Art Unit: 1774

Application No. 09/807,093

Examiner: Tamra Dicus

Filed: May 24, 2001

For: **PACKAGING WRAPPER**

**AMENDMENTS TO CLAIMS
MADE IN RESPONSE TO OFFICE ACTION DATED SEPTEMBER 11, 2002**

Amendments to existing claims:

5. (First Amended) Packaging according to Claim 12, characterized in that the reverse sideinner face of each sheet of the said film has at least one region of cold- sealing coating of the dry type, designed arranged to be at least partially superposed, once the sheet has been folded according to the folding sequence, with a the outer strip of the cold- sealantsealing- coatinged regions on the right sideouter face of the sheet.

6. Packaging according to Claim 5, characterized in that the said at least one region of cold- sealantsealing- coatinged region deposited on the reverse sideinner face of each sheet is deposited at least partially to correspond with the central region of the fourth sideproximate one of the edges which is free of sealing coating.

7. Packaging according to any one of Claims 10 and, 11, 12, 13, 5, 6, characterized in that the sealing coating of the strips of cold sealsealing coating is spread out in the form of an egg-shaped strip.

8. Packaging according to either one of Claims 5 and 6, characterized in that each sheet comprises, over its entire right sideouter face, a non-stick coating which is applied before repreapplied under the outer strip of cold sealing sealing coating of the cold-sealantsealing-coated regions.

9. Packaging according to any one of Claims 11, 5 or 6, characterized in that each sheet comprises, over its an entire reverse-surface area of the inner face, a non-stick layer which is coextruded in the substrate of the sheet.

10. Packaging for wrapping ~~for packaging~~ an article particularly such as a food product, this packaging being obtained from a film which ~~can~~ is adapted to be stored by rolling, in ~~the~~ a longitudinal direction, on a roll and which ~~can~~ is adapted to be cut transversely into separate sheets intended adapted to be closed by folding around the article according to a folding sequence, wherein each sheet of film comprises an inner face, an outer face, a pair of longitudinal edges extending in the longitudinal direction and a pair of traverse edges crosswise relative to the longitudinal edges when transversely cut, characterized in that the film comprises, strips of cold sealing coating, with at least one strip on each sheet along each transverse edge thereof, ~~a strip of cold-sealing coating, one of the~~ including an outer bands ~~strip being on the right side~~ the outer face of the film and ~~the other~~ an inner strip on the reverse side the inner face of the film, in that the said strips ~~by~~ when arranged in mutual superposition hold the packaging finally closed upon completion of the last ~~the~~ folding sequence and in that ~~the~~ a mutual adhesion of the said strips is a controlled adhesion which is strong enough to keep the wrapper closed when folded around the article but not strong enough to disrupt ~~the~~ a paying-out of the film from ~~its~~ the roll in the longitudinal direction when there is mutual contact, in the wound state on the roll, between the inner and outer strips ~~a strip on the right side and a strip on the reverse side~~.

11. Packaging according to Claim 10, characterized in that the ~~right side~~ outer face of each sheet comprises ~~sealant~~ sealing-coated regions arranged at least partially along three sides of the periphery of the sheet in a configuration such that ~~most~~ a majority of these ~~sealant~~ sealing-coated regions are superposed once the sheet has been folded around the article, sticking together and holding the folds in place around the said article.

12. Packaging according to either one of Claims 10 and 11, characterized in that the sealing coating of the strips of cold sealing coating on the right sideouter face is spread out in the form of an oval strip.

13. Packaging according to either one of Claims 10 and 11 to 12, characterized in that each sheet comprises, over the entire right sideouter face, a non-stick coating which is applied before the sealing coating of the cold- sealantsealing- coated regions.